

Public Law 102-548
102d Congress

An Act

Oct. 28, 1992
[H.R. 3598]Intermodal Safe
Container
Transportation
Act of 1992.
49 USC 501 note.

To amend title 49, United States Code, to provide for verification of weights, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,***SECTION 1. SHORT TITLE.**

This Act may be cited as the "Intermodal Safe Container Transportation Act of 1992".

SEC. 2. CERTIFICATION OF WEIGHTS.

(a) **IN GENERAL.**—Subchapter I of chapter 5 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 508. Certification of weights and description**"(a) NOTIFICATION AND CERTIFICATION.—**

"(1) **PRIOR NOTIFICATION.**—Before the time any person tenders to an initial carrier any loaded container or trailer for intermodal transportation having a projected gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, such person shall give such carrier written notification of such gross cargo weight and a reasonable description of the contents of the container or trailer. The notification may be transmitted electronically.

"(2) **CERTIFICATION.**—At or before the time of tendering to an initial carrier for intermodal transportation of a container or trailer to which paragraph (1) applies or of a loaded container or trailer having an actual gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, the person tendering the container or trailer shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.

"(3) **VIOLATION.**—After the date on which the Secretary of Transportation issues final regulations to enforce this section, it shall be a violation of this section for any person tendering a loaded container or trailer to fail to comply with paragraph (1) or (2) or to provide false or erroneous information in a written certification required by paragraph (2).

"(4) **LIMITATION ON APPLICABILITY.**—For purposes of this section, a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, and terminal operator shall not be considered to be a person tendering a loaded container or trailer to an initial carrier, unless the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator assumes legal responsibility for the loading of property into the container or trailer.

"(b) FORWARDING INFORMATION TO SUBSEQUENT CARRIERS.—

"(1) IN GENERAL.—It shall be a violation of this section for a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator to fail to forward the certification of actual gross cargo weight and reasonable description of the contents of a loaded container or trailer provided under subsection (a)(2) to a subsequent carrier transporting the container or trailer in intermodal transportation.

"(2) LIMITATION ON INTERPRETATION OF CARRIER FORWARDING INFORMATION.—The forwarding of information under paragraph (1) by a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator shall not constitute, or in any way be construed as, a verification or affirmation by the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator of the accuracy or completeness of such information.

"(c) UNLAWFUL COERCION.—It shall be unlawful—

"(1) for any person to coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (inclusive of packing materials and pallets) before the certification required by subsection (a)(2) has been provided; and

"(2) for any person, knowing that the weight of the loaded container or trailer or the weight of the tractor-trailer combination carrying the container or trailer in intermodal transportation is in excess of that permitted by applicable State law, to coerce or attempt to coerce any carrier—

"(A) to transport the container or trailer; or

"(B) to operate the tractor-trailer combination;

in violation of such law.

"(d) DUTY OF MOTOR CARRIER.—It shall be unlawful for a motor carrier (as such term is defined in section 10102 of this title) to provide transportation of a loaded container or trailer to which subsection (a)(2) applies prior to receiving the certification required by subsection (a)(2).

"(e) LIMITATION ON APPLICABILITY TO CARRIERS.—The provisions of subsections (a) and (c) shall not apply to a carrier when the carrier is transferring a loaded container or trailer to other carriers in the course of intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the initial carrier.

"(f) STATE ENFORCEMENT.—A State is authorized to enact legislation to enable the State or a political subdivision of the State—

"(1) to assess fines and penalties for violations of State highway weight laws and regulations by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required under subsection (a)(2) against the person tendering to the initial carrier the loaded container or trailer; and

"(2) to impound the container or trailer until such fines and penalties have been paid by the owners or beneficial owners of the contents of the container or trailer or the person tendering the loaded container or trailer to the initial carrier; in any case in which the fines or penalties result from providing false or erroneous information in a written certification in violation of subsection (a)(3).

"(g) LIENS.—

"(1) IN GENERAL.—If a carrier or person involved in the intermodal transportation of a loaded container or trailer for which a certification is required under subsection (a)(2) must under State law post bond or pay any fines, penalties, costs, expenses, or interest resulting from providing false or erroneous information in a written certification with respect to the container or trailer or the contents thereof to the initial carrier in violation of subsection (a)(3), the carrier or other person shall have a lien against such contents equivalent to the amount of such bond or fines, penalties, costs, expenses, or interest incurred by the carrier or other person until the carrier or other person has received a payment of such amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.

"(2) LIMITATIONS.—

"(A) LIMITATION ON DISPOSITION OF CONTENTS.—A lien under this subsection shall not authorize a carrier or other person to sell or otherwise dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the initial carrier is given a reasonable opportunity to determine responsibility for the bond or fines, penalties, costs, expenses, or interest.

"(B) TREATMENT OF CERTAIN OWNERS AND BENEFICIAL OWNERS.—For purposes of this subsection, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the initial carrier shall not be treated as a carrier or person involved in the intermodal transportation of the container or trailer.

"(C) LIMITATION ON APPLICABILITY.—The provisions of this subsection and subsection (f)(2) shall not apply to a container or trailer the contents of which are perishable agricultural commodities (as such term is defined in the Perishable Agricultural Commodities Act, 1930).

"(h) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as creating any obligation or responsibility for the person tendering the loaded container or trailer to the initial carrier to ensure that the initial carrier or any other carrier involved in the intermodal transportation will comply with any State statutes or regulations prescribing weight limitations for highway transportation, beyond the requirements set forth in this section."

49 USC 521.

(b) ENFORCEMENT.—Section 521(b)(2)(A) of such title is amended by inserting "or which is a violation of section 508 of this title" after "Act of 1984".

(c) DEFINITIONS.—Section 501(a) of such title is amended by adding at the end the following new paragraphs:

"(4) 'beneficial owner' means a person who does not have title to property but has ownership rights in the property. For purposes of this paragraph, a trustee of property in transit from an overseas point of origin who is domiciled in or is doing business in the United States shall be treated as a beneficial owner of such property. A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this para-

graph, solely by reason of providing or arranging for such transportation.

"(5) 'carrier' means—

"(A) a motor carrier, water carrier, and rail carrier (as such terms are defined in section 10102 of this title), and

"(B) an ocean common carrier (as such term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)),

providing transportation of property in commerce.

"(6) 'container' has the meaning given the term 'freight container' by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668-1979(E)), including successive revisions thereto, and similar containers that are used in providing transportation in interstate commerce.

"(7) 'initial carrier' means the first carrier transporting a loaded container or trailer in intermodal transportation.

"(8) 'intermodal transportation' means successive carriage of a loaded container or trailer from an origin point to a destination point by more than one mode of transportation in interstate or foreign commerce. Such term shall include carriage by more than one mode of transportation in interstate or foreign commerce both under a single bill of lading and under separate bills of lading.

"(9) 'trailer' means a nonpower, cargo carrying, trailing unit which is designed for use in combination with a truck tractor."

(d) REGULATIONS.—The Secretary shall initiate a proceeding to issue regulations to enforce section 508 of title 49, United States Code, within 180 days after the date of the enactment of this Act and shall issue final regulations within 270 days after such date of enactment. The Secretary may establish, by regulation, exemptions to such regulations that are in the public interest and consistent with the purposes of this Act.

49 USC 508 note.

(e) CONFORMING AMENDMENT TO CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 105 of title 49, United States Code, is amended by adding at the end the following new item:

"508. Certification of weights and description."

SEC. 3. DATA COLLECTION NEEDS.

49 USC 508 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study for the purpose of—

(1) assessing—

(A) existing data and data collection needs with respect to the movement in intermodal transportation of loaded containers and trailers (including containers and trailers containing perishable agricultural commodities) in violation of section 508 of title 49, United States Code, and State highway motor vehicle weight laws;

(B) the legal and practical impediments to the collection of such data; and

(C) how these intermodal movements compare with other overweight domestic highway freight movements; and

(2) providing legislative and other recommendations for improving the collection of such data.

(b) **CONSULTATION.**—In carrying out the study under this section, the Secretary of Transportation shall consult with the States and shippers, carriers, port authorities, and other persons involved in the intermodal transportation of loaded containers and trailers.

(c) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Merchant Marine and Fisheries of the House of Representatives and to the appropriate committees of the Senate a report on the results of the study conducted under this section, together with the recommendations referred to in subsection (a).

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 3598:

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 4, considered and passed House.

Oct. 7, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.